

1 UNITED STATES COURT OF APPEALS
2 FOR THE SECOND CIRCUIT
3

4 SUMMARY ORDER
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6 THIS SUMMARY ORDER WILL NOT BE PUBLISHED IN THE FEDERAL
7 REPORTER AND MAY NOT BE CITED AS PRECEDENTIAL AUTHORITY TO THIS
8 OR ANY OTHER COURT, BUT MAY BE CALLED TO THE ATTENTION OF THIS
9 OR ANY OTHER COURT IN A SUBSEQUENT STAGE OF THIS CASE, IN A
10 RELATED CASE, OR IN ANY CASE FOR PURPOSES OF COLLATERAL ESTOPPEL
11 OR RES JUDICATA.
12

13 At a Stated Term of the United States Court of Appeals for the Second Circuit, held at the
14 Thurgood Marshall United States Courthouse, at Foley Square, in the City of New York, on the
15 6th day of July, two thousand and six.
16

17 PRESENT:
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19 HON. ROGER J. MINER,
20 HON. GUIDO CALABRESI,
21 HON. PAUL R. MICHEL,¹
22 *Circuit Judges.*
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26 JULIUS SCHURKMAN,
27
28 *Petitioner-Appellant,*
29

30 v.

No. 05-0793-pr

31
32 BUREAU OF PRISONS,
33
34 *Respondent-Appellee.*
35

36 _____
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39 For Petitioner-Appellant: DAVID A. LEWIS, Appeals Bureau, Federal Defenders of New
40 York, Inc., New York, N.Y.

¹ The Honorable Paul R. Michel, Chief Judge of the United States Court of Appeals for the Federal Circuit, sitting by designation.

1 For Respondent-Appellee: LAWRENCE H. FOGELMAN, Assistant United States Attorney
2 (Sara L. Shudofsky, Assistant United States Attorney, *on the brief*)
3 for Michael J. Garcia, United States Attorney for the Southern
4 District of New York, New York, N.Y.
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6 Appeal from a final decision of the United States District Court for the Southern District
7 of New York (Chin, *J.*)
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11 **UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND**
12 **DECREED** that the judgment of the district court is **AFFIRMED**.
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16 Julius Schurkman (“Schurkman”) appeals the December 29, 2004, denial of his petition
17 for habeas corpus relief by the United States District Court for the Southern District of New York
18 (Chin, *J.*). Based on two convictions for conspiracy to commit mail and wire fraud in violation
19 of 18 U.S.C. §§ 371, 1341, and 1343, as well as an additional conviction for mail fraud in
20 violation of 18 U.S.C. § 1341 and an additional conviction for conspiracy to commit money
21 laundering in violation of 18 U.S.C. §§ 371 and 1956(a)(1), Schurkman was sentenced to two
22 consecutive terms of fifty-four months imprisonment followed by a three-year term of supervised
23 release. On appeal, Schurkman challenges 28 C.F.R. § 523.20 (2004), a Bureau of Prisons
24 (“BOP”) regulation that governs the method for calculating good time credits pursuant to 18
25 U.S.C. § 3624(b).

26 In a decision that anticipated two subsequent opinions of this court — *Sash v. Zenk*, 428
27 F.3d 132 (2d Cir. 2005) (“Sash I”) and *Sash v. Zenk*, 439 F.3d 61 (2d Cir. 2006) (“Sash II”) —
28 the district court found that 18 U.S.C. § 3624(b) was ambiguous, that *Chevron* deference applied

1 to the BOP's regulation, and that the regulation was therefore reasonable. We assume the
2 parties' familiarity with the facts, the procedural history, and the specific issues on appeal.

3 As Schurkman concedes, our court's decisions in *Sash I* and *Sash II* fully and squarely
4 resolve the questions raised by the instant petition. We are "bound by the decisions of prior
5 panels until such time as they are overruled either by an en banc panel of our Court or by the
6 Supreme Court." *United States v. Wilkerson*, 361 F.3d 717, 732 (2d Cir. 2004). No such
7 intervening decision is present in this case, and thus we are bound to apply *Sash I* and *Sash II*.

8 We have considered the remaining arguments made by Petitioner-Appellant and find
9 them to be without merit. Accordingly, we AFFIRM the judgment of the district court.

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12 For the Court,
13 ROSEANN B. MACKECHNIE,
14 Clerk of the Court

15 by: _____
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